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May 19, 2020

VIA ECF

The Honorable Ronnie Abrams
United States District Judge
Southern District of New York
United States Courthouse
40 Foley Square, Room 2203
New York, New York 10007

Re: Kyle Bragg, as Trustee and the Trustees of the Building
Service 32BJ Health Fund, as Plaintiff, -v.- Tri Consulting
Inc., as Defendant
Case No. 1-22-cv-00995 (RA)

Dear Judge Abrams:

On behalf of Kyle Bragg, as Trustee and the Trustees of the Building Service 32BJ Health Fund, the Plaintiff, I write to advise the court on the status of this action. The Defendant herein, Tri Consulting Inc. failed to reply to the undersigned, after I sent Defendant a draft of the proposed joint letter to be filed with the court, for the Defendant's review.

The Defendant never appeared in this action and has not filed an answer to the complaint. Therefore, Defendant is in default. The Defendant does not have an attorney. Despite this, I can report the Defendant did submit more of the requested documents to the Plaintiff's audit firm yesterday.

Plaintiff brought this action pursuant to Sections 502(a)(3) and 515 of the Employee Retirement Income Security Act ("ERISA") and Section 301 of the Labor-Management Relations Act of 1947, seeking statutory and contractual obligations of Defendant to pay and/or submit monetary contributions and/or reports to the Funds. Plaintiff's lawsuit seeks to compel Defendant to fully cooperate with Plaintiff's audit firm, as they conduct a payroll compliance audit on Defendant's books and records.

The Defendant is a cleaning contractor based in Washington D.C. The Defendant is signatory to a collective bargaining agreement with the Union Local 32BJ (the "Union"). The collective bargaining agreement requires Defendant to contribute to Plaintiff's health benefit fund for Defendant's employees, who are covered by the collective bargaining agreement.

Since this case was filed, Defendant submitted many documents to Plaintiff's audit firm. The parties had a phone conference with the auditor on May 5, 2022 regarding documents still needed by Plaintiffs. The auditor advised that she needed to review the Defendant's General Ledger information. During that call, Defendant explained it does not have a General Ledger. The auditor suggested that she might be able to work with reviewing Defendant's bank statements for the last two years of 2020 and 2021. Defendant agreed to submit those documents to the audit firm. The Defendant submitted those bank statements to Plaintiffs' audit firm yesterday.

These new documents are being reviewed by the auditors. After the auditors complete their review, the auditor might be able to move forward and conduct the payroll compliance audit. However, there is also a chance that the auditor may have further questions for the Defendant after the review of the bank statements.


Based on the above, Plaintiff respectfully request that the court cancel the initial court conference now scheduled for May 26, 2022 at 11:45 a.m. Plaintiff also requests permission to write a status letter to the court by June 23, 2022. That letter will either advise the court that the case has been settled, or the letter will request the court's permission to file a motion for default judgment.

The extension of time will allow the parties to confer and hopefully resolve the remaining issues, in order to avoid further litigation, if possible. Please advise if the court will cancel the initial court conference scheduled for May 26, 2022 at 11:45 a.m. and allow Plaintiff to file a status letter with the court by June 23, 2022. Thank you for the court's time and attention to this matter.

Respectfully submitted,

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By:


Maura Breen, Esq.
Attorneys for Plaintiffs

Cc: Tri Consulting Inc. (via email)

Application granted.

SO ORDERED.



Hon. Ronnie Abrams
05/20/2022